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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,069	07/27/2001	James A. Smith	WATCH-1	6247

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EXAMINER

COLE, LAURA C

ART UNIT	PAPER NUMBER
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1744

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DATE MAILED: 02/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/917,069

Applicant(s)

SMITH ET AL.

Examiner

Laura C Cole

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 10, 14-17 and 21-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-13 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 3, 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-20, drawn to a cleaning attachment, classified in class 15, subclass 247.
  - II. Claims 21-23, drawn to method of converting a cleaning implement, classified in class 300, subclass 21.
  - III. Claim 24, drawn to a kit for converting a cleaning implement, classified in class 15, subclass 247.

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case group I does not include a wipe as group II requires, making the product to be used in a different process such as preventing debris from escaping the cleaning implement.

Inventions III and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination lacks having a

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cover having an inner surface. The subcombination does not include wet or dry wipes.

The subcombination has separate utility such as preventing debris from escaping the cleaning implement.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention:

The cleaning implement:

A broom, with open sided cover

Figures 1-9, 15 drawn to claims 9, 11, 13

A broom, with a closed cover

Figures 10-11, 16 drawn to claims 9, 11, 14, 15, 16, 17

A sponge mop, with open sided cover

Figure 12-13 drawn to claims 10, 13

A sponge mop, with closed cover

Figure 14 drawn to claims 10, 14, 15, 16, 17

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 1-8 and 18-20 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims

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readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Harold Pezzner on 23 January 2003 a provisional election was made without traverse to prosecute the invention of group I and Figures 1-9, 15, claims 1-9, 11-13, and 18-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10, 14-17, and 21-24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

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or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Specification***

2. The use of the trademark VELCRO® has been noted in this application (Page 7 Line 14. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

3. The disclosure is objected to because of the following informalities:

Page 10, Line 6, does applicant intend "central sections" to be "central section"?  
Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-9, 11-13, and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the bottom" in Line 10. There is insufficient antecedent basis for this limitation in the claim.

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~~Claim 6 recites the limitation "the broom" in Line 3. There is insufficient~~  
antecedent basis for this limitation in the claim.

Claim 11 recites "an industrial/institutional broom." However it is unclear what an "industrial/institutional" broom comprises of.

Claim 18 recites the limitation "the effective size" in Line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 18, line 3, "effective size" is unclear.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Granville et al., USPN 3,400,420.

Granville et al. disclose covers for dust mop heads for converting a cleaning implement to a mop (Column 1 Lines 19-24), comprising a flexible cover having an inner surface and an outer surface (Figures 1-5), cover having end sections (Figure 3 (25a, 25b)) connected by a central section (Figures 3 and 6 (26)), a fastening structure for securing the end sections together (Figure 4 (33a, 33b); Column 3 Lines 70-74), and a reusable mounting structure on the outer surface of the cover at the central section (Column 2 Lines 35-41; Figure 1).

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6. Claims 1-2 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated over Barry, USPN 3,339,220.

Barry discloses a device for cleaning corner surfaces comprising a flexible cover (Column 2 Lines 22-24) having an inner surface and an outer surface (Figure 2 (13) has an inner and an outer surface), the cover having end sections (portion of the backing (Figure 2 (43)) where the eyelets or hooks (Figure 1 (17, 18, 23, 24)) are located), a fastening section comprising of "hooks and loops" (Figure 1 (17, 18, 23, 24) are eyelets which are essentially loops and (Figure 1 (15, 16) are fingers which are essentially hooks), the cover is placed around a cleaning head (Figures 1 and 2 (14)) with the inner surface of the cover disposed toward the implement and a central section disposed below the bottom of the cleaning head (Figures 1 and 2 clearly show that the inside of the cover (13) is disposed towards the head (14) and that a central section is at the bottom), the central section is divided into a pair of support surfaces disposed at an angle to form a V (Figure 2; Column 2 Lines 3-10), a reusable mounting structure on the outer surface of the cover to detachably mount a detached wipe to the outer surface below the cleaning head (the reusable mounting structure being the eyelets (17, 18, 23, and 24), fingers (15, 16), or heads (Figure 4 (21) and (22)) which could attach additional sheets or wipes to the structure, and the wipe could conform to the shape of the central section to create two separate cleaning areas as it is in tension (Column 2 Lines 46-50) when attached to the eyelets/fingers/heads. Barry also discloses that the attachment forms an open sided cover around the cleaning head (Figures 1 and 2) and that the



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central section (13) is impregnated with a cleaning composition (Column 3 Lines 4-8, the composition being an abrasive).

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Chase, USPN 2,221,305.

Chase discloses a dry mop for converting a cleaning implement, such as a broom (Figure 3 (8)) to a mop, comprising a flexible cover having an inner surface and an outer surface (Figure 1 (1); Column 2 Lines 20-27), cover having end sections (the sides of (1)) connected by a central section (the bottom section (1)), a fastening structure for securing the end sections together (Figure 2 (10), Figure 5 (15,16), Figure 6 (17,18), Figure 7 (20)), and a reusable mounting structure on the outer surface of the cover at the central section (Column 4 Lines 4-16).

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Dickson, USPN 1,476,396.

Dickson discloses a sanitary broom mop for converting a cleaning implement, such as a broom (Figure 2 (2)) to a mop (Column 1 Lines 8-18), comprising a flexible cover having an inner surface and an outer surface (Figure 2 (3), a cover having end sections (Figure 3 (7,8)) connected by a central section (the bottom (10)), a fastening structure for securing the end sections together (Figure 1 (6)), and a reusable mounting structure on the outer surface of the cover at the central section (Column 2 Lines 83-88).

9. Claims 1 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Geerin, USPN 2,655,680.

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Geerin discloses a dry mop for converting a cleaning implement, comprising a flexible cover having an inner surface and an outer surface (Figure 3), cover having end sections (Figure 3 (16)) connected by a central section (Figure 2 (10)), a fastening structure for securing the end sections together (Column 2 Lines 13-17 and Figures 3 and 5 clearly show stitching), and a reusable mounting structure on the outer surface of the cover at the central section (Figure 4 shows elements (5) that are stitched on (Column 2 Lines 39-41), wherein stitching wipes as shown by (5) is reusable in that the wipes can be torn off). Geerin further displays that each of the end sections includes a fold portion in Figure 2 (there is a slight fold in the region of the stitching between the end sections and the central section which extends the effective size of the central section).

10. Claims 1, 6-8, and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Green, USPN 3,380,504.

Green discloses a curling broom cover for converting a cleaning implement, such as a broom (Column 1 Lines 35-38), comprising a flexible cover having an inner surface and an outer surface (Figure 2; Column 1 Lines 28-33), a cover having end sections (two sides of (11)) connected by a central section (the bottom (Figure 2)), a fastening structure for securing the end sections together (Figure 2 (14)), and a reusable mounting structure on the outer surface of the cover on an end section (Figure 1 (18, 19, 20)). Further Green discloses that an end section is provided with a pair of spaced flaps (Figure 3 (17b)) for bending over the broom head, with one on an inner surface (Figure 3 (17a)) and another on an outer surface (Figure 3 (17b)). The central section is

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flat (bottom of Figure 1 or Figure 2). The cleaning implement with a cleaning head (Column 1 Lines 28-38) and handle (Figure 2 (13)), with the attachment (10) wrapped around the head. The implement is a large curling broom (Abstract), which is industrial/institutional, of the curling sport "industry." Portions of the end sections are folded against a central section (bottom of Figure 2 illustrates a flap of the central section that is folded against the end sections), whereby the central section is larger than the area of the bottom of the cleaning head. The attachment is an open sided cover (See all figures.)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green, USPN 3,380,504 in view of Semenchuk, USPN 3,913,164.

Green discloses all elements mentioned above, however does not disclose that the cleaning implement is a plastic bristled broom.

Semenchuk discloses a curling broom that has a cover element. Column 2 Lines 40-44 disclose that it is known for a broom to be made from synthetic plastic construction. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a plastic bristled broom, since it has been held to be

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within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

### ***Double Patenting***

12. Claims 1-6 and 20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 and 22 of copending Application No. 10/007528. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art to arbitrarily change the shape of the central section of Application No. 10/007528 to that of this application. It also would have been obvious to one of ordinary skill in the art to arbitrarily change the shape of the central section, by flattening or stretching the flexible cover, of this application to any shape depending on the user.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (703) 305-7279. The examiner can normally be reached on Monday-Thursday, 7am - 4:30pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on (703) 308-2920. The fax phone

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numbers for the organization where this application or proceeding is assigned are (703)

746-8772 for regular communications and (703) 873-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

LCC  
LCC  
January 24, 2003

  
ROBERT J. WARDEN, SR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700